

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of)	
Karla Baker,)	
)	
Charging Party,)	
)	
v.)	FHEO No. 03-04-0554-8
)	
Daniel Waisbord, Helene Waisbord,)	
Ava Waisbord, and Rhawn Street)	
Apartments, LLC,)	
)	
Respondents)	
_____)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

Complainant Karla Baker (“Complainant”) filed a verified complaint with the United States Department of Housing and Urban Development (“HUD”) on or about August 26, 2004 against Daniel Waisbord, Ava Waisbord, and Helene Waisbord, and amended that complaint on April 5, 2005 to add additional Respondent Rhawn Street Apartments, LLC, alleging that collectively Respondents (“Respondents”), committed discriminatory housing practices against the Complainant, on the basis of her race (African American) or color (Black), in violation of the Fair Housing Act (“Act”), 42 U.S.C. §§ 3601-19.

The Act authorizes the issuance of a charge of discrimination (“Charge”) on behalf of an aggrieved person following an investigation and determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2).

The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee. The Fair Housing and Equal Opportunity Region III

Director has determined, with the concurrence of the Regional Counsel, that reasonable cause exists to believe that discriminatory housing practices have occurred and, therefore, has authorized the issuance of this charge of discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of this complaint and the following allegations, the Secretary has reasonable cause to believe that Respondents have committed discriminatory housing practices against the Complainant on the basis of the race or color of the Complainant in violation of subsection 804(a), (b), (c), and (d). The allegations that support this charge of discrimination are as follows:

A. Statutory and Regulatory Provisions

1. It is unlawful to refuse to rent or negotiate for rental or otherwise make unavailable or deny a dwelling to any person because of race or color. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.60(a) and (b); 24 C.F.R. §§ 100.70(a)(b) and (c) (2005).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling on the basis of race or color. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(a) and 100.65(b)(1) and (3) (2005).
3. It is unlawful to make statements with respect to the purchase of a dwelling that indicate any preference, limitation or discrimination based on race or color, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (b) and (c) (2005).
4. It is unlawful to represent to any person because of race or color that a dwelling is not available for rental when such dwelling is in fact so available. 42 U.S.C. § 3604(d); 24 C.F.R. § 100.80(a) (2005).

B. Factual Allegations

1. Complainant Karla Baker is African American and currently lives in an apartment complex in Warminster, Pennsylvania.
2. Prior to December 12, 2003, Complainant Karla Baker called the telephone number listed in a Northeast Times Newspaper advertisement and spoke with Respondent Dan Waisbord about available units. Respondent directed the Complainant to available units at 4900 Comly Street in Philadelphia.
3. On or about December 12, 2003, Complainant went to view a property located at 4904 Comly Street in Philadelphia. While at the Comly Street property, the Complainant spoke with individuals who were performing repairs on the property. Complainant told

- one of those individuals that she did not like the Comly Street property and asked if there were other properties available. The worker contacted Respondent Daniel Waisbord. Ms. Baker spoke with Mr. Waisbord who told her about an available property at 6331 Gillespie Street and arranged to meet the Complainant later that day.
4. Respondents Ava Waisbord, Daniel Waisbord's sister-in-law, and Helene Waisbord, the estranged wife of Daniel Waisbord, jointly own the attached single family dwelling at 6331 Gillespie Street in Philadelphia ("subject property"). Respondent Daniel Waisbord¹ manages the property at 6331 Gillespie Street in addition to many other properties owned by Ava and Helene Waisbord and other individuals and corporate entities. Respondent Daniel Waisbord manages well over one hundred rental units. All Respondents are Caucasian. Rhawn Street Apartments, LLC is the owner of the apartment complexes located at 2105-2115 Rhawn Street in Philadelphia.
 5. In the evening hours of December 12, 2003, Complainant met Daniel Waisbord at 6331 Gillespie Street, a row home. The Complainant viewed the property and told the Respondent that she would like to rent the property. Respondent stated that he would need a deposit to hold the unit, which the Complainant gave him. Respondent told her that the rent was \$775.00 and that she would have to pay the water utility. Complainant asked him if he would reduce the rent by \$25.00. Respondent said that he could not, but that he had other properties where he could reduce the rent.
 6. The Complainant told Respondent that she did not want to see other properties and that she still wanted to rent the Gillespie Street house. The Respondent told the Complainant: "[The neighbors] don't like me and I am a White man, and they are Germans...I can decrease \$25 off the other place but I can't rent this place to you. The neighbors aren't going to like it." Mr. Waisbord told the Complainant that he had other properties that he wanted her to see. Even though the Complainant kept insisting that she wanted the Gillespie Street property, Waisbord was adamant that she see the other properties he had available at 2105-2115 Rhawn Street.
 7. Witnesses, including the Respondent, and census data confirm that the majority of residents on the 6300 block of Gillespie Street are Caucasian.
 8. On or about December 19, 2003, the Complainant went to see a third property at 2105-2115 Rhawn Street an apartment complex, and was immediately displeased with the location of the property and the lack of security. Dan Waisbord was late for their appointment at the Rhawn Street properties and Ms. Baker had to call him three times and wait one-and-one-half hours for him to show up.
 9. When Respondent Dan Waisbord met the Complainant at the Rhawn Street property, Complainant told him that she was not interested in that property, but still wanted to rent the Gillespie Street property. However, the Respondent kept offering to show her the Rhawn Street units, despite the Complainant's insistence that she did not like those

¹ Whenever "Respondent" is used in the singular, it refers to Daniel Waisbord. The other Respondents never met the Complainant but are in the rental property business together.

properties and wanted to rent 6331 Gillespie Street. At that point, Respondent returned the Complainant's cash deposit² while they were still at the Rhawn Street property.

10. Witnesses and census data reveal that the Rhawn Street census block is racially and ethnically diverse.
11. At all times during her housing search the Complainant was ready, willing and able to pay the original rent the Respondent quoted to the Complainant for the Gillespie Street property.
12. Shortly thereafter, Respondent rented the Gillespie Street property to Rosemarie Kennedy and Mary Halpin, two Caucasian women, for a monthly rent of \$700.00 and an additional \$42.00 for water. The lease for 6331 Gillespie Street was for a year term, beginning on January 1, 2004.
13. The Complainant had hoped to move into an apartment in the City of Philadelphia prior to Christmas; however, after being rejected for the Gillespie Street property the Complainant stopped looking for rental units within the City.
14. On or about January 4, 2004, the Complainant leased an apartment at Centennial Village Apartments in Warminster, PA for \$720.00 per month plus utilities, which exceed \$100.00 monthly.
15. As a direct result of Respondents' discriminatory conduct, the Complainant has suffered emotional distress, embarrassment, humiliation, loss of housing opportunity and inconvenience. Because of the denial, the Complainant was forced to stay with friends and family for several weeks, including the Christmas holidays, until she moved into her own apartment. In addition, the Complainant had applied for and hoped to gain employment with the City of Philadelphia, which has a residency requirement. After her experience with Respondents, the Complainant was discouraged about looking for housing within the City.

C. Fair Housing Act Violations

1. By prohibiting the Complainant from renting the property at 6331 Gillespie Street, Respondents discriminated against Complainant on the basis of her race and color by refusing to rent that property to her. 42 U.S.C. § 3604(a); 24 C.F.R. §§ 100.60(a) and (b) (2005).
2. By quoting a higher rent for the subject property to the Complainant than Respondent quoted for the Caucasian tenant who rented the Gillespie Street property because of the race or color of the Complainant, Respondents discriminated against the Complainant in the terms, conditions or privileges of sale

² The deposit receipt indicates that the Complainant gave the Respondent \$145.00 to hold the property, however, the Respondent only returned \$100.00 to the Complainant.

or rental of a dwelling. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(a) and 100.65(b)(1) and (3) (2005).

3. By refusing to give Complainant a discount on the rent at the Gillespie Street property while offering the discount to her at the Rhawn Street property, all in order to induce her to select the Rhawn Street unit, on account of her race and color, Respondents discriminated against the Complainant in the terms, conditions or privileges of sale or rental of a dwelling. 42 U.S.C. § 3604(b); 24 C.F.R. §§ 100.65(a) and 100.65(b)(1) (2005).
4. By telling the Complainant that Respondents would not rent the Gillespie Street property because the neighbors would not like it on account of Complainant's race and color, Respondents made a discriminatory statement on the basis of the Complainant's race and color in violation of the Fair Housing Act. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.75(a), (b) and (c) (2005).
5. By misrepresenting to the Complainant that the Gillespie Street property was not available for rent to her because of her race or color when in fact it was, Respondents discriminated against Complainant. 42 U.S.C. § 3604(d); 24 C.F.R. § 100.80(a) (2005).
6. By steering the Complainant from renting the property at 6331 Gillespie Street, Respondents denied the Complainant the opportunity to rent the property of her choice on account of her race and color. 42 U.S.C. §§ 3604(a) and (b); 24 C.F.R. §§ 100.70(a) and (c)(1), (2), (3) and (4) (2005).

III. CONCLUSION

WHEREFORE, the Secretary of Housing and Urban Development, through the Office of the Regional Counsel, Region III, and pursuant to subparagraph 810(g)(2)(A) of the Act, charges Respondent housing authority with engaging in discriminatory housing practices in violation of subsection 804(a), (b), (c), and (d) of the Act and prays that an order be issued that:

1. Declares that Respondents' discriminatory housing practices, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19 and its implementing regulations;
2. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), enjoins Respondents and all other persons in active concert or participation with them, from discriminating against any person based on race or color in any aspect of the rental of a dwelling;
3. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), enjoins Respondents and all other persons in active concert or participation with them, from discriminating against any person by steering such person to or away from a dwelling because of the race or color of that individual or the race or color of the neighbors in a particular community;

4. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), requires the Respondents to establish, promulgate and adhere to nondiscriminatory policies with respect to their tenancing practices;

5. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), awards such damages as will fully compensate Complainant for emotional distress, embarrassment, humiliation, loss of housing opportunity and inconvenience caused by Respondents' discriminatory conduct; and

6. Pursuant to paragraph 812(g)(3) of the Act, 42 U.S.C. § 3612(g)(3), assesses a civil penalty against each Respondent for each violation of the Act that each Respondent has committed.

The Secretary further prays for such additional relief as may be appropriate.

Respectfully submitted,

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